

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESale PRICE)
LITIGATION)

MDL No. 1456

2004 JAN 16 A 10:41

CIVIL ACTION: 01-CV-12257 PBS

THIS DOCUMENT RELATES TO)
ALL ACTIONS)

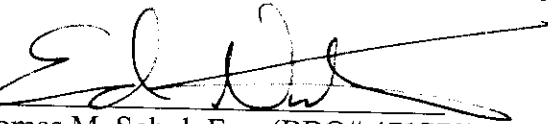
Judge Patti B. Saris

STATUS REPORT

The undersigned counsel for Plaintiffs and Defendants hereby submit the attached status report to the Court.

Respectfully Submitted,

PLAINTIFFS' LEAD COUNSEL
ON BEHALF OF ALL PLAINTIFFS

By 

DATED: January 16, 2004

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DATED: January 16, 2004

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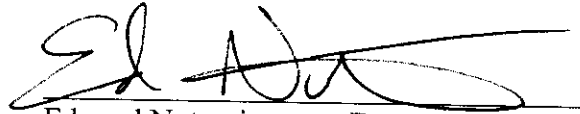
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Attorneys for Defendant AstraZeneca Pharmaceuticals LP

CERTIFICATE OF SERVICE

I hereby certify that I, Edward Notargiacomo, an attorney, caused a true and correct copy of the foregoing Status Report to be served on all counsel of record electronically on January 16, 2004, pursuant to Section D of Case Management Order No. 2.

A handwritten signature in black ink, appearing to read 'Ed Notargiacomo', is written over a horizontal line.

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MDL 1456 STATUS CHART – GOVERNMENT ENTITY CASES

GOVERNMENT ENTITY CASES	MDL DOCKET NUMBER	ORIGINAL JURISDICTION	STATUS
Montana v. Abbott Labs., Inc. et al.	02-CV-12084-PBS	Removed to D. Mont.	<ul style="list-style-type: none"> • Motions to Dismiss <i>sub judice</i> <ul style="list-style-type: none"> ○ Hearing held on December 12, 2003 ○ On January 8, 2004, Court requested amicus curiae brief from Department of Health and Human Services relating to preemption of state law claims relating to the Medicaid rebate program ○ HHS to inform the Court by January 23, 2004 if and when it intends to file an amicus brief ○ Massachusetts' Motion for Leave to File Memorandum as Amicus Curiae in Opposition to the Defendants' Motions to Dismiss on the Grounds of Preemption granted on January 14, 2004
Nevada v. American Home Products, Inc. et al ("Nevada II")	02-CV-12086-PBS	Removed to D. Nev.	<ul style="list-style-type: none"> • Motions to Dismiss <i>sub judice</i> <ul style="list-style-type: none"> ○ Hearing held on December 12, 2003 ○ On January 8, 2004, Court requested amicus curiae brief from Department of Health and Human Services relating to the Medicaid rebate program ○ HHS to inform the Court by January 23, 2004 if and when it intends to file an amicus brief ○ Massachusetts' Motion for Leave to File Memorandum as Amicus Curiae in Opposition to the Defendants' Motions to Dismiss on the Grounds of Preemption granted on January 14, 2004
California <i>ex rel.</i> Ven-A-Care of the Florida Keys, Inc. v. Abbott Labs., Inc. et al.	03-CV-11226-PBS	Removed to C.D. Cal.	<ul style="list-style-type: none"> • Renewed Motion to Remand <i>sub judice</i> <ul style="list-style-type: none"> ○ Hearing held on December 12, 2003 ○ Supplemental Brief Regarding the Issue of Federal Preemption of Rebate Claims filed by Plaintiff on December 18, 2003 ○ Response filed by Abbott on January 9, 2004 • Briefing on motion to dismiss postponed pending a ruling on renewed motion to remand
County of Suffolk v. Abbott Labs., Inc. et al.	03-CV-10643-PBS	E.D.N.Y.	<ul style="list-style-type: none"> • Motions to Dismiss <i>sub judice</i> <ul style="list-style-type: none"> ○ Hearing held on December 12, 2003 ○ On January 8, 2004, Court requested amicus curiae brief from Department of Health and Human Services relating to the Medicaid rebate program ○ HHS to inform the Court by January 23, 2004 if and when it intends to file an amicus brief
County of Rockland v. Abbott Labs., Inc. et al.	03-CV-12347-PBS	S.D.N.Y.	<ul style="list-style-type: none"> • Transferred to MDL 1456 in or around November 2003 • Stipulation in place extending defendants time to answer until 30 days after decision on motions to dismiss Suffolk County complaint

GOVERNMENT ENTITY CASES	MDL DOCKET NUMBER	ORIGINAL JURISDICTION	STATUS
County of Westchester v. Abbott Labs., Inc. et al.*	n/a	S.D.N.Y.	<ul style="list-style-type: none"> • Notice of Related Action filed with JPML on September 5, 2003 • CTO issued by JPML on October 10, 2003 • Motion to Vacate CTO filed by Gilead as to the claims against Gilead only <ul style="list-style-type: none"> ◦ Scheduled on JPML docket for hearing without oral argument on January 29, 2004 • Stipulation in place extending defendants' time to answer until 30 days after decision on motions to dismiss Suffolk County complaint
Texas <i>ex rel.</i> Ven-A-Care of the Florida Keys, Inc. v. Roxane Laboratories, Inc.	n/a	Removed to W.D. Tex.	<ul style="list-style-type: none"> • Transferred to MDL 1456 in or around December 2003

* Transfer to MDL 1456 in progress.

MDL 1456 STATUS CHART – PRIVATE CLASS CASES

PRIVATE CLASS CASES	MDL DOCKET NO.	ORIGINAL JURISDICTION	STATUS
In re Pharmaceutical Industry Average Wholesale Price Litigation	Master File 01-CV-12257-PBS	D. Mass. pursuant to JPML Order	<ul style="list-style-type: none"> • Motions to Dismiss the Amended Master Consolidated Class Action Complaint ("AMCC") <i>sub judice</i> <ul style="list-style-type: none"> ◦ Hearing held on November 21, 2003 ◦ Modified AMCC filed December 5, 2003 in response to Court's direction at November 21, 2003 hearing ◦ Defendants' Response filed on December 19, 2003 (with Motion for Leave to File) ◦ Plaintiffs' Reply filed on January 9, 2004 • Plaintiffs' Motion for Leave to Take Additional Limited Discovery <i>sub judice</i> • Amgen's Motion to Stay Discovery denied on December 11, 2003 • Hoffman-LaRoche's Motion to Stay Discovery <i>sub judice</i> • Boehringer's Motion for a Protective Order from all discovery pending a ruling on Boehringer's Motion to Dismiss filed December 31, 2004; Plaintiffs' opposition filed January 14, 2004 • Plaintiff's Motion for a Protective Order Regarding Subpoenas to Putative Class Members filed December 3, 2003 <ul style="list-style-type: none"> ◦ Defendants' Notice of Opposition filed December 17, 2003; ◦ Defendants' Opposition filed January 9, 2004 (pursuant to Joint Motion For Entry of Scheduling Order) ◦ Plaintiffs' Reply due January 23, 2004 (pursuant to Joint Motion For Entry of Scheduling Order) • Deadlines set by CMO 7 for defendants and drugs subject to CMO 7: <ul style="list-style-type: none"> ◦ Class/Fact Discovery -- March 1, 2004 ◦ Plaintiffs' Expert Reports -- April 1, 2004 ◦ Defendants' Expert Reports -- May 1, 2004 ◦ Expert Depositions -- July 1, 2004 ◦ Class/Sum. Judgmt. Motions -- July 15, 2004 ◦ Class/Sum. Judgmt. Opp. -- July 30, 2004 ◦ Class/Sum. Judgmt. Replies -- August 16, 2004 ◦ Class/Sum. Judgmt. Surreply -- August 30, 2004
Rice v. Abbott Labs., Inc. et al.	03-CV-11285-PBS	Removed to N.D. Cal.	<ul style="list-style-type: none"> • Plaintiff's Voluntary Motion to Dismiss without prejudice granted on December 1, 2003
Thompson v. Abbott Labs., Inc. et al.	03-CV-11286-PBS	Removed to N.D. Cal.	<ul style="list-style-type: none"> • Motion to Remand denied on January 9, 2004 • Motion to Dismiss by Unnamed Defendants and Mylan Laboratories pending; Opposition due January 15, 2004 pursuant to Court's prior order
Turner v. Abbott Labs., Inc. et al.	03-CV-10696-PBS	Removed to N.D. Cal.	<ul style="list-style-type: none"> • Motion to Remand denied on January 9, 2004 • Motion to Dismiss by Unnamed Defendants and Mylan Laboratories pending; Opposition due January 15, 2004 pursuant to Court's prior order
Congress of California Seniors v. Abbott Labs., Inc. et al.	03-CV-10216-PBS	Removed to C.D. Cal.	<ul style="list-style-type: none"> • Motion to Remand denied on January 9, 2004
Swanston v. TAP Pharmaceutical Products,	03-CV-11157-PB	Removed to D. Ariz.	<ul style="list-style-type: none"> • Plaintiff's Motion to Compel Access to MDL Plaintiffs' Document Depository and/or to Compel

PRIVATE CLASS CASES	MDL DOCKET NO.	ORIGINAL JURISDICTION	STATUS
Inc. et al.			Production of Documents by Defendants and for Sanctions filed December 30, 2003; Plaintiffs' and Defendants' Oppositions filed January 13, 2004
International Union of Operating Engineers, Local No. 68 Welfare Fund v. AstraZeneca PLC et al.	n/a	Removed to D.N.J.	<ul style="list-style-type: none"> • Motion to Remand granted on January 9, 2004 • Transferred to MDL 1456 by JPML on December 3, 2003 • Motion to Remand filed in District of New Jersey prior to transfer; briefed while pending in District of New Jersey

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FILED
CLERK'S OFFICE

2004 JAN 16 A 10: 41

U.S. DISTRICT COURT
DISTRICT OF MASS

January 16, 2004

VIA HAND DELIVERY

Clerk's Office
United States District Court
District of Massachusetts
One Courthouse Way, Suite 2300
Boston, MA 02210

Re: In Re: Pharmaceutical Industry Average Wholesale Price Litigation
MDL No. 1456

Dear Sir/Madam:

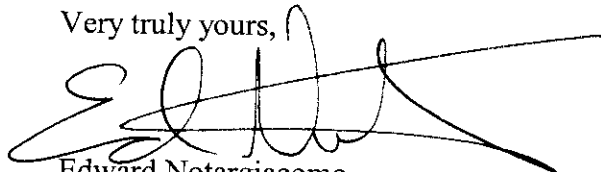
Enclosed for filing in the above-captioned matter please find the following document:

1. Status Report.

Please acknowledge this filing by date-stamping the enclosed copy of this letter and returning it to the waiting messenger.

Thank you.

Very truly yours,



Edward Notargiacomo

Enclosure

cc: All counsel of record (Via VeriLaw)